

IN THE DISTRICT COURT OF UNITED STATES
FOR THE MIDDLE DISTRICT
NORTHERN DIVISION

UNITED STATES OF AMERICA,	*	
PLAINTIFF,	*	
	*	
vs.	*	CR NO. 2:07cr66-MHT
	*	
AMBER DESIREE FREDERICK	*	
DEFENDANT.	*	

MOTION FOR REDUCTION OF SENTENCE
PURSUANT TO THE UNITED STATES SENTENCING GUIDELINES
AND 18 U.S.C. §3582(c)(2)

Comes now the Frederick Tyrone Davis, the Defendant, and moves for a reduction in his sentence under the United States Sentencing Guidelines and 18 U.S.C. §3582(c)(2). As grounds, he states as follows:

1. On November 1, 2007 the United States Sentencing Guidelines were amended to reduce the penalties for crack cocaine. Basically, the amendment lowered the penalty for crack cocaine by two offense levels under the guidelines.

2. On December 11, 2007, the U.S. Sentencing Commission voted unanimously to apply the amendment retroactive for crack cocaine offenses with the effective date for retroactivity set for March 3, 2008.

3. On March 3, 2008 amended U.S.S.G §1B1.10 will read:

"Reduction in Term of Imprisonment as a Result of Amended
Guideline Range (Policy Statement)

(A) Authority-

(1) In General.-In a case in which a defendant is serving a term of imprisonment, and the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the Guidelines Manual listed in subsection (c) below, the court may reduce the defendant's term of imprisonment as provided by 18 U.S.C. §3582(c)(2). As required by 18 U.S.C. §3582(c)(2), any such reduction in the defendant's term of imprisonment shall be consistent with this policy statement. "

4. Defendant was charged in a one count indictment for the possession with intent to distribute 50 grams or more of cocaine base, in violation fo 21 U.S.C. §841(a)(1). She pleaded guilty on May 23, 2007.

5. In calculating Defendant's base offense level, she was attributed with 52.5 grams of crack cocaine and a base offense level of 32 under USSG §2D1.1(c)(4), (Nov.1 2006). (See PSR, July 27, 2007, ¶22, p.6).

6. She received a 2 offense level reduction for the Safety Valve under USSG §§2d1.1(b)(9) and 5C1.2(a)(1)-(5), and a 3 offense level reduction for acceptance of responsibility under USSG §3E.1 for a net base level of 27. Her criminal history category I with 0 points. (PSR ¶ 36, p.7) Therefore, based upon a total offense level of 27 and criminal history category of I, the guideline range of imprisonment was 70-87 months. (PSR ¶61, p.10).

7. On August 10, 2007 the Government filed a motion for a

four (4) offense level downward departure for substantial assistance for a range of 46-51 months. The end result being that the Court sentenced Defendant to 46 months.

8. On March 3, 2008 under the new sentencing guidelines on crack cocaine, Defendant's base offense level for 52.5 grams of cocaine base is 30 under USSG §2D1.1(c)(5). With a reduction of 3 levels for acceptance of responsibility, 2 for the Safety Valve, and the 4 level downward departure for substantial assistance, her new offense level is 21 with a criminal history category of I for a range of punishment of 37-46 months.

9. Last, Defendant is incarcerated and without funds to pay her attorney. She requests that her attorney be appointed under the Criminal Justice Act to represent him.

Wherefore, these premises considered, Defendant requests the following relief:

1. That Paul R. Cooper be appointed under the Criminal Justice Act to be his attorney on this matter.

2. That this matter be set for a hearing after March 3, 2008 when the new amendments on crack cocaine take effect retroactively.

3. That after a hearing, the Defendant be re-sentenced between a range of 37-46 months.

4. That the Defendant be granted such other, different or

further relief to which he may be entitled.

Dated this day January 30, 2008.

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ASB-1152-R78P

CERTIFICATE OF SERVICE

I hereby certify that on the January 30, 2008 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: TOMMIE BROWN HARDWICK, Assistant United States Attorney, and I hereby certify that I have mailed by United States Postal Service the documentation to the following non-CM/ECF participants: none.

Respectfully Submitted,
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